

To: McCabe, Janet[McCabe.Janet@epa.gov]
From: Atkinson, Emily
Sent: Thur 5/19/2016 1:31:43 PM
Subject: RE: Sept 27

I've already moved the June holds to September – I saw the Politico article earlier this week 😊

From: McCabe, Janet
Sent: Wednesday, May 18, 2016 8:08 PM
To: Atkinson, Emily <Atkinson.Emily@epa.gov>
Subject: Sept 27

This is the new date for the CPP court hearing. Could you please block it off on my schedule?
thanks

From: Goffman, Joseph
Importance: Normal
Subject: Accepted: HOLD | DC Circuit: CPP Oral Arguments
Start Date/Time: Tue 9/27/2016 12:00:00 PM
End Date/Time: Tue 9/27/2016 9:00:00 PM

From: Goffman, Joseph
Importance: Normal
Subject: Accepted: HOLD | DC Circuit: CPP Oral Arguments
Start Date/Time: Wed 9/28/2016 12:00:00 PM
End Date/Time: Wed 9/28/2016 9:00:00 PM

To: Jody Freeman[freeman@law.harvard.edu]
Cc: Harvey, Reid[Harvey.Reid@epa.gov]
From: Goffman, Joseph
Sent: Wed 5/18/2016 5:06:54 PM
Subject: RE: query

Not Responsive

From: Jody Freeman [mailto:freeman@law.harvard.edu]
Sent: Wednesday, May 18, 2016 1:00 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: Re: query

Not Responsive

Ex. 6 - Personal Privacy

Jody Freeman

Archibald Cox Professor of Law

Director, Environmental Law Program

Harvard Law School

Twitter: @JodyFreemanHLS

Assistant: curley@law.harvard.edu

Bio: <http://www.law.harvard.edu/faculty/directory/10285/Freeman>

Program: <http://environment.law.harvard.edu>

From: <Goffman>, Joseph Goffman EPA <Goffman.Joseph@epa.gov>
Date: Wednesday, May 18, 2016 at 9:49 AM
To: Jody Freeman <freeman@law.harvard.edu>
Subject: RE: query

On the DC Circuit order, all I can say is: "Forget it, Jake. It's Climatetown."

Not Responsive

Ex. 6 - Personal Privacy

Thanks.

From: Jody Freeman [<mailto:freeman@law.harvard.edu>]
Sent: Wednesday, May 18, 2016 12:28 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: query

Joe,

Not Responsive

Also, PS, am coming to DC for oral argument in CPP case in September

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Thank you!

Jody

Jody Freeman

Archibald Cox Professor of Law

Director, Environmental Law Program

Harvard Law School

Twitter: @JodyFreemanHLS

Assistant: curley@law.harvard.edu

Bio: <http://www.law.harvard.edu/faculty/directory/10285/Freeman>

Program: <http://environment.law.harvard.edu>

To: Utech, Dan G. G. EOP/WHO Ex. 6 - Personal Privacy
From: Goffman, Joseph
Sent: Mon 5/16/2016 10:48:44 PM
Subject: FW: Delay in EPA climate case means decision unlikely until after Obama leaves

Patton quote: "We welcome immediate en banc review of the merits which avoids overall delay in achieving judicial resolution in the DC Circuit - an especially welcome development in light of the clear and present danger of climate pollution on for our communities and families," said Vickie Patton, general counsel for the Environmental Defense Fund.

From: POLITICO Pro Energy [mailto:politicoemail@politicopro.com]
Sent: Monday, May 16, 2016 6:45 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: Delay in EPA climate case means decision unlikely until after Obama leaves

Delay in EPA climate case means decision unlikely until after Obama leaves

By Alex Guillén

05/16/2016 06:41 PM EDT

President Barack Obama will most likely be a private citizen by the time a court weighs in on the centerpiece of his agenda to fight climate change.

The D.C. Circuit Court of Appeals sent shock waves through Washington's environmental law world on Monday when it issued an unexpected order expanding the oral arguments in the challenge over EPA's Clean Power Plan to the full court, rather than the previous three-judge panel.

Oral arguments will now take place before the full court on Sept. 27. The cornucopia of judges and sheer complexity of the legal challenge mean that, even on a fast track, the court's ruling is unlikely to come before Obama's term in office ends in January. The delay also makes it less likely that the Supreme Court hears the case before a ninth justice is confirmed, reducing the likelihood of a 4-4 split in the case.

Lawyers on both sides of the case welcomed the delay.

"We view this as a positive development and we look forward to arguing our case before the entire United States Court of Appeals for the District of Columbia Circuit and seeing this illegal and destructive rule is completely invalidated by the courts," said Gary Broadbent, a spokesman for coal producer Murray Energy.

However, the move could still spell good news for EPA.

A majority of D.C. Circuit judges were appointed by Democratic presidents, including three Obama appointees who were confirmed after Senate Democrats in 2013 changed their confirmation rules to banish the filibuster on most nominations.

The D.C. Circuit has 11 active judges, with seven Democratic appointees and four Republican appointees.

However, it appears two of the Democratic appointees - Chief Judge Merrick Garland, who is nominated for the Supreme Court's open seat, and Judge Nina Pillard, an Obama appointee - may not participate in the case. Both recused themselves from the order expanding the case for reasons unexplained by the court, although Garland has withdrawn from most of his normal duties since being nominated to the Supreme Court earlier this year. It remains to be seen if Garland returns to a more active role by September.

That leaves the court set to hear the case with five Democratic appointees and four Republican appointees.

Though the court's decision caught all sides by surprise - no one had preemptively asked for a hearing before the full circuit - both the challengers and EPA's supporters spun the news as a boon for their cause.

"We welcome this unusual step by the full court, which confirms our long-held view that the Power Plan is an unprecedented and transformative rule of a kind the states have never seen from EPA," said West Virginia Attorney General Patrick Morrisey. "We look forward to presenting our arguments in September."

Environmentalists, meanwhile, said the move would ultimately speed up the case because the full panel's decision would go straight to the Supreme Court, which stayed the Clean Power Plan in its own surprise move in February. If next month's oral arguments had proceeded, that three-judge panel's decision could have been appealed to the full circuit before going to the high court.

"We welcome immediate en banc review of the merits which avoids overall delay in achieving judicial resolution in the DC Circuit - an especially welcome development in light of the clear and present danger of climate pollution on for our communities and families," said Vickie Patton, general counsel for the Environmental Defense Fund.

The Clean Power Plan challenge is still widely expected to end up before the Supreme Court in some form, but winning at the circuit level is still important as the lower court's ruling will help set the scope of any appeal.

The delay also throws into question whether the Supreme Court can hear an appeal during next term. Oral arguments in the October 2016 term will wrap up around April 2017, potentially leaving arguments for the fall of 2017 and a ruling from the high court sometime after that.

If Senate Republicans continue to refuse to consider Garland's nomination, that timeline should give the next president time to appoint a new justice, reducing the possibility that the case would be heard by a court evenly split between liberals and conservatives.

To view online:

<https://www.politicopro.com/energy/story/2016/05/epa-carbon-rule-skips-a-step-in-court-113706>

You received this POLITICO Pro content because your customized settings include: Energy: 2016; Energy: Climate Change; Energy: Courts; Energy: EPA; Energy: Executive Branch; Energy: Power; Energy: Regulations; Energy: States; Keyword Alert: clean power plan. To change your alert settings, please go to <https://www.politicopro.com/settings>

This email was sent to goffman.joseph@epa.gov by: POLITICO, LLC 1000 Wilson Blvd.
Arlington, VA, 22209, USA

To: McCabe, Janet[McCabe.Janet@epa.gov]
From: Goffman, Joseph
Sent: Mon 5/16/2016 9:52:21 PM
Subject: RE: Court expands, delays oral arguments over EPA carbon rule

Ex. 5 - Attorney Client

From: Goffman, Joseph
Sent: Monday, May 16, 2016 5:29 PM
To: McCabe, Janet <McCabe.Janet@epa.gov>
Subject: FW: Court expands, delays oral arguments over EPA carbon rule

When was the last time you saw a grown man cry?

Oral argument now September 27 and this ----

It is not immediately clear whether Chief Judge Merrick Garland, who has been nominated for the open seat on the Supreme Court, will participate in oral arguments. He recused himself from the decision to hold an en banc hearing before the full circuit, as did Judge Nina Pillard, an Obama appointee, for reasons not explained by the court.

From: POLITICO Pro Energy Whiteboard [<mailto:politicoemail@politicopro.com>]
Sent: Monday, May 16, 2016 5:24 PM
To: Goffman, Joseph <Goffman.Joseph@epa.gov>
Subject: Court expands, delays oral arguments over EPA carbon rule

By Alex Guillén

05/16/2016 05:19 PM EDT

Oral arguments in the challenge to EPA's Clean Power Plan will occur before the full D.C. Circuit Court of Appeals, the court ordered in a surprise announcement today. That means a decision is all but guaranteed to come after the November election.

The oral arguments will now take place on Sept. 27 before the full court. Seven of the circuit's 11 active judges were appointed by Democrats and four by Republicans. The arguments had previously been scheduled for June 2 after a three-judge panel assigned to the case placed it on an accelerated track.

It is not immediately clear whether Chief Judge Merrick Garland, who has been nominated for the open seat on the Supreme Court, will participate in oral arguments. He recused himself from the decision to hold an en banc hearing before the full circuit, as did Judge Nina Pillard, an Obama appointee, for reasons not explained by the court.

To view online:

<https://www.politicopro.com/energy/whiteboard/2016/05/court-expands-delays-oral-arguments-over-epa-carbon-rule-071949>

You received this POLITICO Pro content because your customized settings include: Energy: Receive All; Keyword Alert: clean power plan. To change your alert settings, please go to <https://www.politicopro.com/member/alerts>

This email was sent to goffman.joseph@epa.gov by: POLITICO, LLC 1000 Wilson Blvd.
Arlington, VA, 22209, USA

To: Niebling, William[Niebling.William@epa.gov]
From: Goffman, Joseph
Sent: Mon 5/16/2016 9:38:44 PM
Subject: Fwd: Clean Power Plan - D.C. Circuit delays oral argument until September 27th, to be heard by full court
[ORDER.PDF](#)
[ATT00001.htm](#)

Sent from my iPhone

Begin forwarded message:

From: "Garbow, Avi" <Garbow.Avi@epa.gov>
Date: May 16, 2016 at 5:29:37 PM EDT
To: Administrator "Fritz, Matthew" <Fritz.Matthew@epa.gov>, "Meiburg, Stan" <Meiburg.Stan@epa.gov>, "Goffman, Joseph" <Goffman.Joseph@epa.gov>, "McCabe, Janet" <McCabe.Janet@epa.gov>, "Shenkman, Ethan" <Shenkman.Ethan@epa.gov>, "Purchia, Liz" <Purchia.Liz@epa.gov>, "Herckis, Arian" <Herckis.Arian@epa.gov>
Subject: Clean Power Plan - D.C. Circuit delays oral argument until September 27th, to be heard by full court

Folks,

Big news – in a surprise move, the D.C. Circuit has unilaterally moved the CPP oral argument from June 2nd to September 27th, and it will no longer be heard by a three-judge panel but instead by the full court (the names of the judges to hear the case are specified in the attached order).

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 15-1363

September Term, 2015

EPA-80FR64662

Filed On: May 16, 2016

State of West Virginia, et al.,

Petitioners

v.

Environmental Protection Agency and Regina
A. McCarthy, Administrator, United States
Environmental Protection Agency,

Respondents

American Wind Energy Association, et al.,
Intervenors

Consolidated with 15-1364, 15-1365,
15-1366, 15-1367, 15-1368, 15-1370,
15-1371, 15-1372, 15-1373, 15-1374,
15-1375, 15-1376, 15-1377, 15-1378,
15-1379, 15-1380, 15-1382, 15-1383,
15-1386, 15-1393, 15-1398, 15-1409,
15-1410, 15-1413, 15-1418, 15-1422,
15-1432, 15-1442, 15-1451, 15-1459,
15-1464, 15-1470, 15-1472, 15-1474,
15-1475, 15-1477, 15-1483, 15-1488

BEFORE: Garland,* Chief Judge, and Henderson, Rogers, Tatel, Brown,
Griffith, Kavanaugh, Srinivasan, Millett, Pillard,* and Wilkins,
Circuit Judges

ORDER

It is **ORDERED**, on the court's own motion, that these cases, currently scheduled for oral argument on June 2, 2016, be rescheduled for oral argument before the en banc court on Tuesday, September 27, 2016 at 9:30 a.m. It is

* Chief Judge Garland and Circuit Judge Pillard did not participate in this matter.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 15-1363

September Term, 2015

FURTHER ORDERED that the parties and amici curiae provide 25 additional paper copies of all final briefs and appendices to the court by June 1, 2016.

A separate order will issue regarding allocation of oral argument time.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Michael C. McGrail
Deputy Clerk

To: Millett, John[Millett.John@epa.gov]
Cc: Niebling, William[Niebling.William@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]
From: Drinkard, Andrea
Sent: Tue 5/17/2016 12:28:13 PM
Subject: Re: TPs

From Liz...

The Clean Power Plan fits squarely within the four corners of the Clean Air Act. We are confident we will prevail when the CPP has its day in court.

Andrea Drinkard
(o) 202.564.1601

Ex. 6 - Personal Privacy

On May 17, 2016, at 8:22 AM, Millett, John <Millett.John@epa.gov> wrote:

No TPs on the DC Circuit en banc announcement

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Not Responsive

John Millett
202.510.1822

On May 16, 2016, at 6:07 PM, Niebling, William <Niebling.William@epa.gov> wrote:

If there are any TPs developed this evening, would you please share them with me? Stan has a hearing tomorrow morning, so would like to give him whatever the latest and greatest is. Thanks!

William L. Niebling

Office of Air and Radiation

U.S. Environmental Protection Agency

tel: 202.564.9616

fax: 202.564.1408

To: Distefano, Nichole[DiStefano.Nichole@epa.gov]
Cc: Goffman, Joseph[Goffman.Joseph@epa.gov]
From: Niebling, William
Sent: Tue 5/17/2016 12:28:03 PM
Subject: Re: can you resend the q/a

No TPs to my knowledge. I

Ex. 5 - Deliberative

Ex. 5 - Deliberative

On May 16, 2016, at 9:29 PM, Distefano, Nichole <DiStefano.Nichole@epa.gov> wrote:

Thanks. Let me know if we have new TPs in light of decision.

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Sent from my iPhone

On May 16, 2016, at 5:41 PM, Niebling, William <Niebling.William@epa.gov> wrote:

Now that I understand it is for Stan's hearing, attaching the TPs we gave Gina. Upon re-reading them, I don't think they need editing in light of breaking news. If we get any response point pulled together, I'll forward it.

From: Niebling, William
Sent: Monday, May 16, 2016 5:18 PM
To: Distefano, Nichole <DiStefano.Nichole@epa.gov>
Cc: Goffman, Joseph <goffman.joseph@epa.gov>
Subject: RE: can you resend the q/a

Attached. Adding Joe in light of breaking news in case he has updates sooner than I do.

From: Distefano, Nichole
Sent: Monday, May 16, 2016 5:05 PM
To: Niebling, William <Niebling.William@epa.gov>
Subject: can you resend the q/a

We did for GM on CPP stay and CEIP?

Nichole Distefano

Associate Administrator

Office of Congressional and Intergovernmental Relations

Environmental Protection Agency

(202) 564-5200

Distefano.Nichole@epa.gov

To: Goffman, Joseph[Goffman.Joseph@epa.gov]
From: McCabe, Janet
Sent: Mon 5/16/2016 11:33:25 PM
Subject: Fwd: Clean Power Plan - D.C. Circuit delays oral argument until September 27th, to be heard by full court

Ex. 5 - Attorney Client

Sent from my iPhone

Begin forwarded message:

From: "Purchia, Liz" <Purchia.Liz@epa.gov>
Date: May 16, 2016 at 5:08:00 PM MDT
To: "Goffman, Joseph" <Goffman.Joseph@epa.gov>
Cc: Administrator "Garbow, Avi" <Garbow.Avi@epa.gov>, "Fritz, Matthew" <Fritz.Matthew@epa.gov>, "Meiburg, Stan" <Meiburg.Stan@epa.gov>, "McCabe, Janet" <McCabe.Janet@epa.gov>, "Shenkman, Ethan" <Shenkman.Ethan@epa.gov>, "Herckis, Arian" <Herckis.Arian@epa.gov>
Subject: Re: Clean Power Plan - D.C. Circuit delays oral argument until September 27th, to be heard by full court

Here's the final statement. I'm planning to send it in 30.

The Clean Power Plan fits squarely within the four corners of the Clean Air Act. We are confident we will prevail when the CPP has its day in court.

On May 16, 2016, at 6:50 PM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

EDF in Politico: We welcome immediate en banc review of the merits which avoids overall delay in achieving judicial resolution in the DC Circuit - an especially welcome development in light of the clear and present danger of climate pollution on for our communities and families," said Vickie Patton, general counsel for the Environmental Defense Fund.

From: Administrator
Sent: Monday, May 16, 2016 6:18 PM
To: Purchia, Liz <Purchia.Liz@epa.gov>
Cc: Garbow, Avi <Garbow.Avi@epa.gov>; Goffman, Joseph

<Goffman.Joseph@epa.gov>; Fritz, Matthew <Fritz.Matthew@epa.gov>; Meiburg, Stan
<Meiburg.Stan@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>; Shenkman, Ethan
<Shenkman.Ethan@epa.gov>; Herckis, Arian <Herckis.Arian@epa.gov>

Subject: Re: Clean Power Plan - D.C. Circuit delays oral argument until September 27th, to
be heard by full court

Ex. 5 - Deliberative

Sent from my iPhone

On May 17, 2016, at 7:03 AM, Purchia, Liz <Purchia.Liz@epa.gov> wrote:

Frank is connecting with Deese and supposed to call me in 10.

DOJ is not putting out a statement.

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Ex. 5 - Deliberative

From: Administrator

Sent: Monday, May 16, 2016 5:56 PM

To: Garbow, Avi <Garbow.Avi@epa.gov>

Cc: Goffman, Joseph <Goffman.Joseph@epa.gov>; Fritz, Matthew <Fritz.Matthew@epa.gov>; Meiburg, Stan <Meiburg.Stan@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>; Shenkman, Ethan <Shenkman.Ethan@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Herckis, Arian <Herckis.Arian@epa.gov>

Subject: Re: Clean Power Plan - D.C. Circuit delays oral argument until September 27th, to be heard by full court

Can you call me? Thanks

Sent from my iPhone

On May 17, 2016, at 6:38 AM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

Ex. 5 - Attorney Client

Avi S. Garbow

General Counsel

U.S. Environmental Protection Agency

Sent from my iPhone

On May 16, 2016, at 5:37 PM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

Ex. 5 - Attorney Client

Sent from my iPhone

On May 16, 2016, at 5:29 PM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

Folks,

Big news – in a surprise move, the D.C. Circuit has unilaterally moved the CPP oral argument from June 2nd to September 27th, and it will no longer be heard by a three-judge panel but instead by the full court (the names of the judges to hear the case are specified in the attached order).

Ex. 5 - Attorney Client

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Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

<ORDER.PDF>

To: Goffman, Joseph[Goffman.Joseph@epa.gov]
Cc: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Shenkman, Ethan[Shenkman.Ethan@epa.gov]
From: McCabe, Janet
Sent: Mon 5/16/2016 9:12:34 PM
Subject: Re: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule

????

Sent from my iPhone

On May 16, 2016, at 3:11 PM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

Wha'?!

Sent from my iPhone

Begin forwarded message:

From: POLITICO Pro Energy <politicoemail@politicopro.com>
Date: May 16, 2016 at 5:09:09 PM EDT
To: <goffman.joseph@epa.gov>
Subject: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule
Reply-To: POLITICO subscriptions <reply-fe8f1174776c057476-591782_HTML-637932885-1376319-0@politicocmail.com>

Oral arguments in the challenge to EPA's Clean Power Plan will occur before the full D.C. Circuit Court of Appeals, the court ordered in a surprise announcement today. That means a decision is all but guaranteed to come after the November election.

To change your alert settings, please go to
<https://www.politicopro.com/member/alerts>

This email was sent to goffman.joseph@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

To: Goffman, Joseph[Goffman.Joseph@epa.gov]; Millett, John[Millett.John@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Ashley, Jackie[Ashley.Jackie@epa.gov]
From: Drinkard, Andrea
Sent: Mon 5/16/2016 9:11:26 PM
Subject: Fwd: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule

Ummm?

Andrea Drinkard
(o) 202.564.1601

Ex. 6 - Personal Privacy

Begin forwarded message:

From: POLITICO Pro Energy <politicoemail@politicopro.com>
Date: May 16, 2016 at 5:09:04 PM EDT
To: <drinkard.andrea@epa.gov>
Subject: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule
Reply-To: POLITICO subscriptions <reply-fe8f1174776c057476-591782_HTML-637921761-1376319-0@politicoemail.com>

Oral arguments in the challenge to EPA's Clean Power Plan will occur before the full D.C. Circuit Court of Appeals, the court ordered in a surprise announcement today. That means a decision is all but guaranteed to come after the November election.

To change your alert settings, please go to <https://www.politicopro.com/member/alerts>

This email was sent to drinkard.andrea@epa.gov by: POLITICO, LLC 1000 Wilson Blvd.
Arlington, VA, 22209, USA

To: Jordan, Scott[Jordan.Scott@epa.gov]
From: Jordan, Scott
Sent: Tue 5/17/2016 1:55:49 PM
Subject: RE: CPP Litigation Update - Oral Argument moved to September 27 and will be hear en banc - Update
ORDER.PDF

Ex. 5 - Attorney Client

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

From: Jordan, Scott
Sent: Tuesday, May 17, 2016 7:23 AM
To: Jordan, Scott <Jordan.Scott@epa.gov>
Subject: RE: CPP Litigation Update - Oral Argument moved to September 27 and will be hear en banc - Caveat

One caveat to my previous email: The order specifically says that Garland and Pillard “did not participate in this matter.”

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

From: Jordan, Scott

Sent: Tuesday, May 17, 2016 7:16 AM

To: Jordan, Scott <Jordan.Scott@epa.gov>

Subject: CPP Litigation Update - Oral Argument moved to September 27 and will be hear en banc

In the attached order, the court has moved oral argument in the CPP litigation to September 27. This oral argument had been scheduled for June 2.

Moreover, the court ordered that oral argument will be presented to the court en banc (meaning that all of the active judges in the circuit will participate in oral argument), except that Judges Garland and Pillard will not participate. As listed in the attached order, the judges participating include Circuit Judges Henderson, Rogers, Tatel, Brown, Griffith, Kavanaugh, Srinivasan, Millett, and Wilkins.

The order states that a separate order will be issued regarding the allocation of time for oral argument.

The attached order does not state why the court decided to hear the case en banc in the first instance. (Normally, circuit court cases are heard first by a three-judge panel. After the panel issues a decision, parties may request rehearing en banc.)

Scott Jordan

Air and Radiation Law Office

Office of General Counsel

202-564-7508

To: Garbow, Avi[Garbow.Avi@epa.gov]; Shenkman, Ethan[Shenkman.Ethan@epa.gov]
Cc: Zenick, Elliott[Zenick.Elliott@epa.gov]; Jordan, Scott[Jordan.Scott@epa.gov]; Hoffman, Howard[hoffman.howard@epa.gov]
From: Schmidt, Lorie
Sent: Mon 5/16/2016 10:08:32 PM
Subject: RE: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule

CPP oral argument moved to Sept. 27. It will be heard by the entire court sitting en banc, except that Garland and Pillard

Ex. 5

Ex. 5

Ex. 5

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

From: Garbow, Avi
Sent: Monday, May 16, 2016 5:31 PM
To: Shenkman, Ethan <Shenkman.Ethan@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Jordan, Scott <Jordan.Scott@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>
Subject: RE: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule

Ex. 5 - Attorney Client

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

From: Shenkman, Ethan

Sent: Monday, May 16, 2016 5:26 PM

To: Garbow, Avi <Garbow.Avi@epa.gov>

Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Jordan, Scott <Jordan.Scott@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>

Subject: Re: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule

Ex. 5

Sent from my iPhone

On May 16, 2016, at 5:23 PM, Shenkman, Ethan <Shenkman.Ethan@epa.gov> wrote:

Ex. 5

Sent from my iPhone

On May 16, 2016, at 5:13 PM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

Does anyone have a copy of this order? Or any info./background?

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

From: Purchia, Liz
Sent: Monday, May 16, 2016 5:11 PM
To: Garbow, Avi <Garbow.Avi@epa.gov>
Subject: FW: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule

From: POLITICO Pro Energy [<mailto:politicoemail@politicopro.com>]
Sent: Monday, May 16, 2016 5:09 PM
To: Purchia, Liz <Purchia.Liz@epa.gov>
Subject: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule

Oral arguments in the challenge to EPA's Clean Power Plan will occur before the full D.C. Circuit Court of Appeals, the court ordered in a surprise announcement today. That means a decision is all but guaranteed to come after the November election.

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<https://www.politicopro.com/member/alerts>

This email was sent to purchia.liz@epa.gov by: POLITICO, LLC 1000 Wilson Blvd.
Arlington, VA, 22209, USA

To: Garbow, Avi[Garbow.Avi@epa.gov]
Cc: Bosworth, Michael S. EOP/WHO **Ex. 6 - Personal Privacy**
From: Eggleston, Neil N. EOP/WHO
Sent: Mon 5/16/2016 9:59:59 PM
Subject: Re: Clean Power Plan - DC Circuit Reschedules Argument to Sept. 27 - En Banc

Yes, thanks.

On May 16, 2016, at 5:32 PM, Garbow, Avi <Garbow.Avi@epa.gov<mailto:Garbow.Avi@epa.gov>> wrote:

Assume you have now heard of this.

Avi Garbow
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

From: Purchia, Liz
Sent: Monday, May 16, 2016 5:19 PM
To: Garbow, Avi <Garbow.Avi@epa.gov<mailto:Garbow.Avi@epa.gov>>
Subject: FW: Clean Power Plan - DC Circuit Reschedules Argument to Sept. 27 - En Banc

From: Hornbuckle, Wyn (OPA) [mailto:Wyn.Hornbuckle@usdoj.gov]
Sent: Monday, May 16, 2016 5:18 PM
To: Harrison, Melissa <Harrison.Melissa@epa.gov<mailto:Harrison.Melissa@epa.gov>>; Purchia, Liz <Purchia.Liz@epa.gov<mailto:Purchia.Liz@epa.gov>>
Subject: FW: Clean Power Plan - DC Circuit Reschedules Argument to Sept. 27 - En Banc

FYI

From: Lipshultz, Jon (ENRD)
Sent: Monday, May 16, 2016 5:12 PM
To: Cruden, John (ENRD); Hirsch, Sam (ENRD); Chilakamarri, Varudhini (ENRD); Guzman, Javier M. (OAAG); Stewart, Malcolm L (OSG); Feigin, Eric (OSG); Martinez, Roman (OSG)
Cc: Hostetler, Eric (ENRD); Vaden, Christopher (ENRD); Grishaw, Letitia (ENRD); Hornbuckle, Wyn (OPA)
Subject: Clean Power Plan - DC Circuit Reschedules Argument to Sept. 27 - En Banc

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

To: Garbow, Avi[Garbow.Avi@epa.gov]
From: Purchia, Liz
Sent: Mon 5/16/2016 9:42:14 PM
Subject: FW: Court expands, delays oral arguments over EPA carbon rule

From: POLITICO Pro Energy Whiteboard [mailto:politicoemail@politicopro.com]
Sent: Monday, May 16, 2016 5:25 PM
To: Purchia, Liz <Purchia.Liz@epa.gov>
Subject: Court expands, delays oral arguments over EPA carbon rule

By Alex Guillén

05/16/2016 05:19 PM EDT

Oral arguments in the challenge to EPA's Clean Power Plan will occur before the full D.C. Circuit Court of Appeals, the court ordered in a surprise announcement today. That means a decision is all but guaranteed to come after the November election.

The oral arguments will now take place on Sept. 27 before the full court. Seven of the circuit's 11 active judges were appointed by Democrats and four by Republicans. The arguments had previously been scheduled for June 2 after a three-judge panel assigned to the case placed it on an accelerated track.

It is not immediately clear whether Chief Judge Merrick Garland, who has been nominated for the open seat on the Supreme Court, will participate in oral arguments. He recused himself from the decision to hold an en banc hearing before the full circuit, as did Judge Nina Pillard, an Obama appointee, for reasons not explained by the court.

To view online:

<https://www.politicopro.com/energy/whiteboard/2016/05/court-expands-delays-oral-arguments-over-epa-carbon-rule-071949>

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<https://www.politicopro.com/member/alerts>

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.

To: Garbow, Avi[Garbow.Avi@epa.gov]
Cc: Hirsch, Sam (ENRD)[Sam.Hirsch@usdoj.gov]
From: Cruden, John (ENRD)
Sent: Mon 5/16/2016 9:40:46 PM
Subject: FW: Clean Power Plan - DC Circuit Reschedules Argument to Sept. 27 - En Banc
ENV DEFENSE-#766393-v1-admin su cpp en banc order.PDF

Original attached.

After talking to others, some points

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

John

To: Shenkman, Ethan[Shenkman.Ethan@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]
Cc: Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Jordan, Scott[Jordan.Scott@epa.gov]
From: Hoffman, Howard
Sent: Mon 5/16/2016 9:36:13 PM
Subject: RE: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule

Ex. 5 - Attorney Client

From: Shenkman, Ethan
Sent: Monday, May 16, 2016 5:35 PM
To: Garbow, Avi <Garbow.Avi@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Jordan, Scott <Jordan.Scott@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>
Subject: Re: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Sent from my iPhone

On May 16, 2016, at 5:30 PM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

Ex. 5 - Attorney Client

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

From: Shenkman, Ethan

Sent: Monday, May 16, 2016 5:26 PM

To: Garbow, Avi <Garbow.Avi@epa.gov>

Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Jordan, Scott <Jordan.Scott@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>

Subject: Re: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule

Ex. 5 - Attorney Client

Sent from my iPhone

On May 16, 2016, at 5:23 PM, Shenkman, Ethan <Shenkman.Ethan@epa.gov> wrote:

Ex. 5 - Attorney Client

Sent from my iPhone

On May 16, 2016, at 5:13 PM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

Does anyone have a copy of this order? Or any info./background?

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

From: Purchia, Liz
Sent: Monday, May 16, 2016 5:11 PM
To: Garbow, Avi <Garbow.Avi@epa.gov>
Subject: FW: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule

From: POLITICO Pro Energy [<mailto:politicoemail@politicopro.com>]
Sent: Monday, May 16, 2016 5:09 PM
To: Purchia, Liz <Purchia.Liz@epa.gov>
Subject: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule

Oral arguments in the challenge to EPA's Clean Power Plan will occur before the full D.C. Circuit Court of Appeals, the court ordered in a surprise announcement today. That means a decision is all but guaranteed to come after the November election.

To change your alert settings, please go to
<https://www.politicopro.com/member/alerts>

This email was sent to purchia.liz@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

To: Garbow, Avi[Garbow.Avi@epa.gov]
From: Purchia, Liz
Sent: Mon 5/16/2016 9:13:50 PM
Subject: RE: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule

Just this alert: Ex. 5 - Attorney Client

From: Garbow, Avi
Sent: Monday, May 16, 2016 5:13 PM
To: Purchia, Liz <Purchia.Liz@epa.gov>
Subject: RE: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule

Do you have a copy of the order?

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

From: Purchia, Liz
Sent: Monday, May 16, 2016 5:11 PM
To: Garbow, Avi <Garbow.Avi@epa.gov>
Subject: FW: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule

From: POLITICO Pro Energy [mailto:politicoemail@politicopro.com]
Sent: Monday, May 16, 2016 5:09 PM
To: Purchia, Liz <Purchia.Liz@epa.gov>
Subject: POLITICO Pro Breaking News: Court delays arguments on EPA climate rule

Oral arguments in the challenge to EPA's Clean Power Plan will occur before the full D.C. Circuit Court of Appeals, the court ordered in a surprise announcement today. That means a decision is all but guaranteed to come after the November election.

To change your alert settings, please go to <https://www.politicopro.com/member/alerts>

This email was sent to purchia.liz@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

To: Purchia, Liz[Purchia.Liz@epa.gov]
From: Administrator
Sent: Mon 5/16/2016 10:31:16 PM
Subject: Re: Clean Power Plan - D.C. Circuit delays oral argument until September 27th, to be heard by full court

Great.

Sent from my iPhone

On May 17, 2016, at 7:29 AM, Purchia, Liz <Purchia.Liz@epa.gov> wrote:

They seem to be good with us putting out something, but I'm waiting on them for edits.

They're also talking to legal folks about comments.

Here's what Greenwire has an outside voice saying

"Because this eliminates that time period before a panel decision and a request for en banc, it allows this case to proceed more rapidly," Dorsey & Whitney attorney James Rubin said. "It definitely shortens the time period for this to get to the Supreme Court."

From: Administrator
Sent: Monday, May 16, 2016 6:18 PM
To: Purchia, Liz <Purchia.Liz@epa.gov>
Cc: Garbow, Avi <Garbow.Avi@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Fritz, Matthew <Fritz.Matthew@epa.gov>; Meiburg, Stan <Meiburg.Stan@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>; Shenkman, Ethan <Shenkman.Ethan@epa.gov>; Herckis, Arian <Herckis.Arian@epa.gov>
Subject: Re: Clean Power Plan - D.C. Circuit delays oral argument until September 27th, to be heard by full court

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Sent from my iPhone

On May 17, 2016, at 7:03 AM, Purchia, Liz <Purchia.Liz@epa.gov> wrote:

Frank is connecting with Deese and supposed to call me in 10.

DOJ is not putting out a statement.

Ex. 5 - Deliberative

Ex. 5 - Deliberative

Ex. 5 - Deliberative

From: Administrator

Sent: Monday, May 16, 2016 5:56 PM

To: Garbow, Avi <Garbow.Avi@epa.gov>

Cc: Goffman, Joseph <Goffman.Joseph@epa.gov>; Fritz, Matthew <Fritz.Matthew@epa.gov>; Meiburg, Stan <Meiburg.Stan@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>; Shenkman, Ethan <Shenkman.Ethan@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Herckis, Arian <Herckis.Arian@epa.gov>

Subject: Re: Clean Power Plan - D.C. Circuit delays oral argument until September 27th, to be heard by full court

Can you call me? Thanks

Sent from my iPhone

On May 17, 2016, at 6:38 AM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

Ex. 5 - Attorney Client

Avi S. Garbow

General Counsel

U.S. Environmental Protection Agency

Sent from my iPhone

On May 16, 2016, at 5:37 PM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

Ex. 5 - Attorney Client

Sent from my iPhone

On May 16, 2016, at 5:29 PM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

Folks,

Big news – in a surprise move, the D.C. Circuit has unilaterally moved the CPP oral argument from June 2nd to September 27th, and it will no longer be heard by a three-judge panel but instead by the full court (the names of the judges to hear the case are specified in the attached order).

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

<ORDER.PDF>

To: Garbow, Avi[Garbow.Avi@epa.gov]
Cc: Goffman, Joseph[Goffman.Joseph@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Meiburg, Stan[Meiburg.Stan@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Shenkman, Ethan[Shenkman.Ethan@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Herckis, Arian[Herckis.Arian@epa.gov]
From: Administrator
Sent: Mon 5/16/2016 9:52:58 PM
Subject: Re: Clean Power Plan - D.C. Circuit delays oral argument until September 27th, to be heard by full court

Ex. 5 - Deliberative

Sent from my iPhone

On May 17, 2016, at 6:38 AM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

Ex. 5 - Attorney Client

Avi S. Garbow
General Counsel
U.S. Environmental Protection Agency

Sent from my iPhone

On May 16, 2016, at 5:37 PM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

Ex. 5 - Attorney Client

Sent from my iPhone

On May 16, 2016, at 5:29 PM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

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Big news – in a surprise move, the D.C. Circuit has unilaterally moved the CPP oral argument from June 2nd to September 27th, and it will no longer be heard by a three-judge panel but instead by the full court (the names of the judges to hear the case are specified in the attached order).

Ex. 5 - Attorney Client

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Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

<ORDER.PDF>

To: Administrator
From: Garbow, Avi
Sent: Mon 5/16/2016 10:45:49 PM
Subject: Re: Clean Power Plan - D.C. Circuit delays oral argument until September 27th, to be heard by full court

Ex. 5 - Attorney Client

Avi S. Garbow
General Counsel
U.S. Environmental Protection Agency

Sent from my iPhone

On May 16, 2016, at 6:41 PM, Administrator wrote:

Ex. 5 - Attorney Client

Sent from my iPhone

On May 17, 2016, at 7:36 AM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

Ex. 5 - Attorney Client

Avi S. Garbow
General Counsel
U.S. Environmental Protection Agency

Sent from my iPhone

On May 16, 2016, at 5:37 PM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

Ex. 5 - Attorney Client

Sent from my iPhone

On May 16, 2016, at 5:29 PM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

Folks,

Big news – in a surprise move, the D.C. Circuit has unilaterally moved the CPP oral argument from June 2nd to September 27th, and it will no longer be heard by a three-judge panel but instead by the full court (the names of the judges to hear the case are specified in the attached order).

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

<ORDER.PDF>

To: Administrator
From: Garbow, Avi
Sent: Mon 5/16/2016 10:02:15 PM
Subject: Re: Clean Power Plan - D.C. Circuit delays oral argument until September 27th, to be heard by full court

Just tried your cell. I will try back but you can reach me at Ex. 6 - Personal Privacy

Avi S. Garbow
General Counsel
U.S. Environmental Protection Agency

Sent from my iPhone

On May 16, 2016, at 5:57 PM, Administrator wrote:

Ok no problem.

Sent from my iPhone

On May 17, 2016, at 6:56 AM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

Yes - give me five minutes or so and I will call.

Avi S. Garbow
General Counsel
U.S. Environmental Protection Agency

Sent from my iPhone

On May 16, 2016, at 5:55 PM, Administrator wrote:
Administrator

Can you call me? Thanks

Sent from my iPhone

On May 17, 2016, at 6:38 AM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

Ex. 5 - Attorney Client

Avi S. Garbow
General Counsel
U.S. Environmental Protection Agency

Sent from my iPhone

On May 16, 2016, at 5:37 PM, Goffman, Joseph
<Goffman.Joseph@epa.gov> wrote:

Ex. 5 - Attorney Client

Sent from my iPhone

On May 16, 2016, at 5:29 PM, Garbow, Avi <Garbow.Avi@epa.gov>
wrote:

Folks,

Big news – in a surprise move, the D.C. Circuit has unilaterally moved the CPP oral argument from June 2nd to September 27th, and it will no longer be heard by a three-judge panel but instead by the full court (the names of the judges to hear the case are specified in the attached order).

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

<ORDER.PDF>

To: McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]
From: Hoffman, Howard
Sent: Mon 5/16/2016 9:22:02 PM
Subject: FW: CLEAN POWER PLAN ARGUMENT POSTPONED -- EN BANC HEARING IN SEPTEMBER
[ORDER.pdf](#)

Ex. 5 - Attorney Client

From: Hostetler, Eric (ENRD) [mailto:Eric.Hostetler@usdoj.gov]
Sent: Monday, May 16, 2016 5:10 PM
To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Jordan, Scott <Jordan.Scott@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>
Cc: Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>; Skinner-Thompson, Jonathan (ENRD) <Jonathan.Skinner-Thompson@usdoj.gov>; Lynk, Brian (ENRD) <Brian.Lynk@usdoj.gov>; Rave, Norman (ENRD) <Norman.Rave@usdoj.gov>; Lipshultz, Jon (ENRD) <Jon.Lipshultz@usdoj.gov>; Berman, Amanda (ENRD) <Amanda.Berman@usdoj.gov>
Subject: CLEAN POWER PLAN ARGUMENT POSTPONED -- EN BANC HEARING IN SEPTEMBER
Importance: High

Ex. 5 - Attorney Client

To: Goffman, Joseph[Goffman.Joseph@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Millett, John[Millett.John@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]
From: Purchia, Liz
Sent: Mon 5/16/2016 9:21:32 PM
Subject: FW: Clean Power Plan - DC Circuit Reschedules Argument to Sept. 27 - En Banc
[ENV DEFENSE-#766393-v1-admin su cpp en banc order.PDF](#)

Ex. 5 - Attorney Client

From: Hornbuckle, Wyn (OPA) [mailto:Wyn.Hornbuckle@usdoj.gov]
Sent: Monday, May 16, 2016 5:18 PM
To: Harrison, Melissa <Harrison.Melissa@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>
Subject: FW: Clean Power Plan - DC Circuit Reschedules Argument to Sept. 27 - En Banc

FYI

From: Lipshultz, Jon (ENRD)
Sent: Monday, May 16, 2016 5:12 PM
To: Cruden, John (ENRD); Hirsch, Sam (ENRD); Chilakamarri, Varudhini (ENRD); Guzman, Javier M. (OAAG); Stewart, Malcolm L (OSG); Feigin, Eric (OSG); Martinez, Roman (OSG)
Cc: Hostetler, Eric (ENRD); Vaden, Christopher (ENRD); Grishaw, Letitia (ENRD); Hornbuckle, Wyn (OPA)
Subject: Clean Power Plan - DC Circuit Reschedules Argument to Sept. 27 - En Banc

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client